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Mathy Stanislaus, Assistant Administrator
Office of Solid Waste and Emergency Response
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
MC 5101T
Washington, DC 20460

Re: GE's Modeling Results for Upper and Lower Hudson River

Dear Assistant Administrator Stanislaus:

I am writing to request that you review and reverse the decision of Region 2 to withhold from the Hudson River Peer Review Panel General Electric's technical memorandum entitled *Proposed Allowable Downstream PCB Load for the Hudson River Dredging Project*. As discussed in further detail below, GE submitted this report to EPA's Peer Review contractor, SRA International, on June 28 in support of its proposed resuspension standard for the Hudson River project and pursuant to a specific commitment made to the Peer Review Panel at the May 4-6 session. This information is clearly relevant to the Peer Review Panel's deliberations and furthers Administrator Jackson's commitment to sound science and transparency in Agency decision-making.

As you are aware, EPA and GE have studied the Hudson River for decades to determine the most appropriate remedy to address the sediments in the upper river. In 2005, EPA and GE entered into a consent decree under which GE agreed to implement Phase 1 of the remedy, the first year of a dredging project. A central feature of our agreement with EPA was an independent scientific peer review of Phase 1. GE and EPA have both been challenged to evaluate the huge amount of data from Phase 1 under a tight schedule. As part of that process, GE developed a state-of-the-art model to simulate the fate and transport of PCBs in the upper river, including the potential impacts of PCBs released during dredging. EPA guidance strongly recommends using such models at complex sediment sites, and it is standard Agency practice to use these tools. Unfortunately, in this case the Region decided not to update its decade-old model, despite acknowledging it underpredicts PCB load to the lower Hudson River, and so GE undertook to develop an updated model.

At the May peer review meeting, GE described its model to the Panel and presented a proposed resuspension standard of 1200 kg of PCBs, representing the maximum amount of PCBs that could be released during dredging and still achieve the benefits of the project forecast by EPA. We also told the Panel that the proposed standard was an upper-bound limit, and that we planned to adjust that standard based on additional modeling runs, to take account of the impact of PCBs re-deposited in the river during dredging. We explained that the results of that effort would not be available until mid to late June due to the computational time needed to run modeling scenarios, and that we would provide the information to the

Panel at that time. GE completed that effort, and on June 28 we submitted to SRA a full description of the model and a revised resuspension standard of 920 kg PCBs, and we asked SRA to forward those materials to the Panel.

Region 2 staff has informed us verbally that they have instructed SRA not to forward the GE Load Standard report to the Peer Review Panel. They further stated that their concern is one of timing – that is, they do not believe that the Peer Review Panel has sufficient time to review GE's report and still provide its recommendations prior to the Agency's self-imposed deadline of September for a final decision in this matter. In support of this position, staff provided us for the first time an e-mail that the Region apparently sent to SRA on May 11 informing the Panel that "the peer review process will not be extended to provide additional time for the panel to consider GE's forthcoming model." As a procedural matter, we believe that it was inappropriate and inconsistent with an open and independent peer review process for EPA to communicate unilaterally with the contractor a decision that purports to govern the Panel's consideration of GE's position without providing GE a copy at the same time. Moreover, with respect to the substance of the current dispute, the Region's e-mail at most relates to the *schedule* of the peer review process, *not* the submission of GE's report, which staff itself described as "forthcoming."

We are aware that the Region is interested in having the Peer Review Panel complete its deliberations so that it may issue its final decision. However, it is important to note that we are not asking to delay the Peer Review process, only that the PCB Load Standard report be provided to the independent Panel promptly so that it may make its own determination as to whether or how to use the modeling information. The report in question has only 9 pages of text and follows the framework for setting the standards discussed with the Panel at the May peer review session. Again, we believe that this is a fundamental principle of independent peer review.

For these reasons, I respectfully request that you reverse the Region's decision to withhold critical information from the independent Peer Review Panel and instruct SRA to forward GE's PCB Load Standard report to the Panel. By separate letter to the Region, we are also formally requesting that GE's report and related information be included in the administrative record for EPA's evaluation of Phase 1 of the Hudson River dredging project and its decisions concerning Phase 2 of that project.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "A. R. Klee". The signature is stylized with a large initial "A" and a long horizontal line extending to the right.

Ann R. Klee

cc: Scott Fulton, USEPA
Judith Enck, USEPA
Walter Mugdan, USEPA
Paul Simon, USEPA
Douglas Fischer, USEPA
John Haggard, GE
Sheri Moreno, GE